

1 AN ACT in relation to fire protection.

2 Be it enacted by the People of the State of Illinois,
3 represented in the General Assembly:

4 Section 1. Short title. This Act may be cited as the
5 Fire Department Promotion Act.

6 Section 5. Definitions. In this Act:

7 "Affected department" or "department" means a municipal
8 fire department or the fire department operated by a fire
9 protection district. The terms do not include fire
10 departments operated by the State, a university, or a
11 municipality with a population over 1,000,000 or any unit of
12 local government other than a municipality or fire protection
13 district.

14 "Appointing authority" means the Board of Fire and Police
15 Commissioners, Board of Fire Commissioners, Civil Service
16 Commissioners, Superintendent or Department Head, Fire
17 Protection District Board of Trustees, or other entity having
18 the authority to administer and grant promotions in an
19 affected department.

20 "Promotion" means any appointment or advancement to a
21 rank within the affected department for which an examination
22 was required before the effective date of this Act.

23 "Promotion" does not include appointments (i) that are for
24 less than 180 days; (ii) to the positions of Superintendent,
25 Chief, or other chief executive officer; (iii) to an
26 exclusively administrative or executive rank for which an
27 examination is not required; (iv) to a rank that has
28 previously been exempted by a home rule municipality,
29 provided that after the effective date of this Act no home
30 rule municipality may exempt any future or existing ranks
31 from the provisions of this Act; or (v) to an administrative

1 rank immediately below the Superintendent, Chief, or other
2 chief executive officer of an affected department, provided
3 such rank shall not exceed 2 persons and there is a promoted
4 rank immediately below it. Notwithstanding the exceptions to
5 the definition of "promotion" set forth in items (i), (ii),
6 (iii), (iv), and (v) of this paragraph, promotions shall
7 include any appointments to ranks covered by the terms of a
8 collective bargaining agreement in effect on the effective
9 date of this Act.

10 "Preliminary promotion list" means the rank order of
11 eligible candidates established in accordance with subsection
12 (b) of Section 20 prior to applicable veteran's preference
13 points. A person on the preliminary promotion list who is
14 eligible for veteran's preference under the laws and
15 agreements applicable to the appointing authority may file a
16 written application for that preference within 10 days after
17 the initial posting of the preliminary promotion list. The
18 preference shall be calculated in accordance with Section 55
19 and applied as an addition to the person's total point score
20 on the examination. The appointing authority shall make
21 adjustments to the preliminary promotion list based on any
22 veteran's preference claimed and the final adjusted promotion
23 list shall then be posted by the appointing authority.

24 "Final adjusted promotion list" means the promotion list
25 for the position that is in effect on the date the position
26 is created or the vacancy occurs. If there is no final
27 adjusted promotion list in effect for that position on that
28 date, or if all persons on the current final adjusted
29 promotion list for that position refuse the promotion, the
30 affected department shall not make a permanent promotion
31 until a new final adjusted promotion list has been prepared
32 in accordance with this Act, but may make a temporary
33 appointment to fill the vacancy. Temporary appointments shall
34 not exceed 180 days.

1 Each component of the promotional test shall be scored on
2 a scale of 100 points. The component scores shall then be
3 reduced by the weighting factor assigned to the component on
4 the test and the scores of all components shall be added to
5 produce a total score based on a scale of 100 points.

6 Section 10. Applicability.

7 (a) This Act shall apply to all positions in an affected
8 department, except those specifically excluded in items (i),
9 (ii), (iii), (iv), and (v) of the definition of "promotion"
10 in Section 5 unless such positions are covered by a
11 collective bargaining agreement in force on the effective
12 date of this Act. Existing promotion lists shall continue to
13 be valid until after their expiration dates, or up to a
14 maximum of 3 years after the effective date of this Act.

15 (b) Notwithstanding any statute, ordinance, rule, or
16 other laws to the contrary, all promotions in an affected
17 department to which this Act applies shall be administered in
18 the manner provided for in this Act. Provisions of the
19 Illinois Municipal Code, the Fire Protection District Act,
20 municipal ordinances, or rules adopted pursuant to such
21 authority and other laws relating to promotions in affected
22 departments shall continue to apply to the extent they are
23 compatible with this Act, but in the event of conflict
24 between this Act and any other law, this Act shall control.

25 (c) A home rule or non-home rule municipality may not
26 administer its fire department promotion process in a manner
27 that is inconsistent with this Act. This Section is a
28 limitation under subsection (i) of Section 6 of Article VII
29 of the Illinois Constitution on the concurrent exercise by
30 home rule units of the powers and functions exercised by the
31 State.

32 (d) This Act does not apply to any municipality with a
33 population over 1,000,000.

1 (e) This Act is intended to serve as a minimum standard
2 and shall be construed to authorize and not to limit:

3 (1) An appointing authority from establishing
4 different or supplemental promotional criteria
5 components, provided that each component is job-related
6 and applied uniformly to all candidates.

7 (2) The negotiation by an employer and an exclusive
8 representative of clauses within a collective bargaining
9 agreement relating to conditions or procedures for the
10 promotion of employees who are not specifically excluded
11 under items (i), (ii), (iii), (iv), and (v) of the
12 definition of "promotion" in Section 5.

13 Section 15. Promotion process.

14 (a) For the purpose of granting promotion to any rank to
15 which this Act applies, the appointing authority shall from
16 time to time, as necessary, administer a promotion process in
17 accordance with this Act.

18 (b) Eligibility requirements to participate in the
19 promotional process may include a minimum requirement as to
20 the length of employment, education, training, and
21 certification in subjects and skills related to fire
22 fighting. After the effective date of this Act, any such
23 eligibility requirements shall be published at least one year
24 prior to the date of the beginning of the promotional process
25 and all members of the affected department shall be given an
26 equal opportunity to meet those eligibility requirements.

27 (c) All aspects of the promotion process shall be
28 equally accessible to all eligible employees of the
29 department. Every component of the testing and evaluation
30 procedures shall be published to all eligible candidates when
31 the announcement of promotional testing is made. The scores
32 for each component of the testing and evaluation procedures
33 shall be disclosed to each candidate as soon as practicable

1 after the component is completed.

2 (d) The appointing authority shall provide a separate
3 promotional examination for each rank that is filled by
4 promotion. All examinations for promotion shall be
5 competitive among the members of the next lower rank who meet
6 the established eligibility requirements and desire to submit
7 themselves to examination. The appointing authority may
8 employ consultants to design and administer promotion
9 examinations or may adopt any job-related examinations or
10 study materials that may become available, so long as they
11 comply with the requirements of this Act.

12 Section 20. Promotion lists.

13 (a) For the purpose of granting a promotion to any rank
14 to which this Act applies, the appointing authority shall
15 from time to time, as necessary, prepare a preliminary
16 promotion list in accordance with this Act. The preliminary
17 promotion list shall be distributed, posted, or otherwise
18 made conveniently available by the appointing authority to
19 all members of the department.

20 (b) A person's position on the preliminary promotion
21 list shall be determined by a combination of factors which
22 may include any of the following: (i) the person's score on
23 the written examination for that rank, determined in
24 accordance with Section 35; (ii) the person's seniority
25 within the department, determined in accordance with Section
26 40; (iii) the person's ascertained merit, determined in
27 accordance with Section 45; and (iv) the person's score on
28 the subjective evaluation, determined in accordance with
29 Section 50. Candidates shall be ranked on the list in rank
30 order based on the highest to the lowest total points scored
31 on all of the components of the test. Promotional components,
32 as defined herein, shall be determined and administered in
33 accordance with the referenced Section, unless otherwise

1 modified or agreed to as provided by paragraph (1) or (2) of
2 subsection (e) of Section 10. The use of physical criteria,
3 including but not limited to fitness testing, agility
4 testing, and medical evaluations, is specifically barred from
5 the promotion process.

6 (c) A person on the preliminary promotion list who is
7 eligible for a veteran's preference under the laws and
8 agreements applicable to the department may file a written
9 application for that preference within 10 days after the
10 initial posting of the preliminary promotion list. The
11 preference shall be calculated as provided under Section 55
12 and added to the total score achieved by the candidate on the
13 test. The appointing authority shall then make adjustments
14 to the rank order of the preliminary promotion list based on
15 any veteran's preferences awarded. The final adjusted
16 promotion list shall then be distributed, posted, or
17 otherwise made conveniently available by the appointing
18 authority to all members of the department.

19 (d) Whenever a promotional rank is created or becomes
20 vacant due to resignation, discharge, promotion, death, or
21 the granting of a disability or retirement pension, or any
22 other cause, the department shall appoint to that position
23 the person with the highest ranking on the final promotion
24 list for that rank, except that the appointing authority may
25 pass over the person with the highest ranking if it has an
26 objectively demonstrable basis for determining that the
27 person is unable to perform the duties of the position. Any
28 dispute as to the existence of such a basis shall be subject
29 to resolution in accordance with any grievance procedure in
30 effect covering the employee.

31 A vacancy shall be deemed to occur in a position on the
32 date upon which the position is vacated, and on that same
33 date, a vacancy shall occur in all ranks inferior to that
34 rank, provided that the position or positions continue to be

1 funded and authorized by the corporate authorities. If a
2 vacated position is not filled due to a lack of funding or
3 authorization and is subsequently reinstated, the final
4 promotion list shall be continued in effect until all
5 positions vacated have been filled or for a period up to 5
6 years beginning from the date on which the position was
7 vacated. In such event, the candidate or candidates who
8 would have otherwise been promoted when the vacancy
9 originally occurred shall be promoted.

10 Any candidate may refuse a promotion once without losing
11 his or her position on the final adjusted promotion list.
12 Any candidate who refuses promotion a second time shall be
13 removed from the final adjusted promotion list, provided that
14 such action shall not prejudice a person's opportunities to
15 participate in future promotion examinations.

16 (e) A final adjusted promotion list shall remain valid
17 for a period of 3 years after the date of the initial
18 posting. Integrated lists are prohibited and when a list
19 expires it shall be void, except as provided in subsection
20 (d) of this Section. If a promotion list is not in effect,
21 a successor list shall be prepared and distributed within 180
22 days after a vacancy, as defined in subsection (d) of this
23 Section.

24 Section 25. Monitoring.

25 (a) All aspects of the promotion process, including
26 without limitation the administration, scoring, and posting
27 of scores for the written examination and subjective
28 evaluation and the determination and posting of seniority and
29 ascertained merit scores, shall be subject to monitoring and
30 review in accordance with this Section and Sections 30 and
31 50.

32 (b) Two impartial persons who are not members of the
33 affected department shall be selected to act as observers as

1 follows: by the exclusive bargaining agent or if there is no
2 exclusive bargaining agent, then by a majority of the
3 candidates participating in the promotion process. The
4 corporate authorities may also select 2 additional impartial
5 observers.

6 (c) The observers monitoring the promotion process are
7 authorized to be present and observe when any component of
8 the test is administered or scored. Observers may not
9 interfere with the promotion process, but shall promptly
10 report any observed or suspected violation of the
11 requirements of this Act or an applicable collective
12 bargaining agreement to the appointing authority and all
13 other affected parties.

14 Section 30. Promotion examination components. Promotion
15 examinations that include components consisting of written
16 examinations, seniority points, ascertained merit, or
17 subjective evaluations shall be administered as provided in
18 Sections 35, 40, 45 and 50. The weight, if any, that is
19 given to any such component included in a test may be set at
20 the discretion of the appointing authority provided that such
21 weight shall be subject to modification by the terms of any
22 collective bargaining agreement in effect on the effective
23 date of this Act or thereafter by negotiations between the
24 employer and an exclusive bargaining representative. If the
25 appointing authority establishes a minimum passing score,
26 such score shall be announced prior to the date of the
27 promotion process and it must be an aggregate of all
28 components of the testing process. All candidates shall be
29 allowed to participate in all components of the testing
30 process irrespective of their score on any one component.

31 Section 35. Written examinations.

32 (a) The appointing authority may not condition

1 eligibility to take the written examination on the
2 candidate's score on any of the previous components of the
3 examination. The written examination for a particular rank
4 shall consist of matters relating to the duties regularly
5 performed by persons holding that rank within the department.
6 The examination shall be based only on the contents of
7 written materials that the appointing authority has
8 identified and made readily available to potential examinees
9 at least 90 days before the examination is administered. The
10 test questions and material must be pertinent to the
11 particular rank for which the examination is being given. The
12 written examination shall be administered after the
13 determination and posting of the seniority list, ascertained
14 merit points, and subjective evaluation scores. The written
15 examination shall be administered, the test materials opened,
16 and the results scored and tabulated only in the presence of
17 the observers appointed under Section 25 and only in
18 accordance with subsection (b) of this Section.

19 (b) Written examinations shall be graded at the
20 examination site on the day of the examination immediately
21 upon completion of the test in front of the observers if such
22 observers are appointed under Section 25, or if the tests
23 are graded offsite by a bona fide testing agency, the
24 observers shall witness the sealing and the shipping of the
25 tests for grading and the subsequent opening of the scores
26 upon the return from the testing agency. Every examinee shall
27 have the right (i) to obtain his or her score on the
28 examination on the day of the examination or upon the day of
29 its return from the testing agency (or the appointing
30 authority shall require the testing agency to mail the
31 individual scores to any address submitted by the candidates
32 on the day of the examination); and (ii) to review the
33 answers to the examination that the examiners consider
34 correct. The appointing authority may hold a review session

1 after the examination for the purpose of gathering feedback
2 on the examination from the candidates.

3 (c) Sample written examinations may be examined by the
4 appointing authority and members of the department, but no
5 person in the department or the appointing authority
6 (including the Chief, Civil Service Commissioners, Board of
7 Fire and Police Commissioners, Board of Fire Commissioners,
8 or Fire Protection District Board of Trustees and other
9 appointed or elected officials) may see or examine the
10 specific questions on the actual written examination before
11 the examination is administered. If a sample examination is
12 used, actual test questions shall not be included. It is a
13 violation of this Act for any member of the department or the
14 appointing authority to obtain or divulge foreknowledge of
15 the contents of the written examination before it is
16 administered.

17 (d) Each department shall maintain reading and study
18 materials for its current written examination and the reading
19 list for the last 2 written examinations for each rank and
20 shall make these materials available and accessible at each
21 duty station.

22 Section 40. Seniority points.

23 (a) Seniority points shall be based only upon service
24 with the affected department and shall be calculated as of
25 the date of the written examination. The weight of this
26 component and its computation shall be determined by the
27 appointing authority or through a collective bargaining
28 agreement.

29 (b) A seniority list shall be posted before the written
30 examination is given and before the preliminary promotion
31 list is compiled. The seniority list shall include the
32 seniority date, any breaks in service, the total number of
33 eligible years, and the number of seniority points.

1 Section 45. Ascertained merit.

2 (a) The promotion test may include points for
3 ascertained merit. Ascertained merit points may be awarded
4 for education, training, and certification in subjects and
5 skills related to the fire service. The basis for granting
6 ascertained merit points, after the effective date of this
7 Act, shall be published at least one year prior to the date
8 ascertained merits points are awarded and all persons
9 eligible to compete for promotion shall be given an equal
10 opportunity to obtain ascertained merit points unless
11 otherwise agreed to in a collective bargaining agreement.

12 (b) Total points awarded for ascertained merit shall be
13 posted before the written examination is administered and
14 before the promotion list is compiled.

15 Section 50. Subjective evaluation.

16 (a) A promotion test may include a subjective evaluation
17 component. Subjective evaluations may include an oral
18 interview, tactical evaluation, performance evaluation, or
19 other component based on subjective evaluation of the
20 examinee. The methods used for subjective evaluations may
21 include using any employee assessment centers, evaluation
22 systems, chief's points, or other methods.

23 (b) Any subjective component shall be identified to all
24 candidates prior to its application, be job-related, and be
25 applied uniformly to all candidates. Every examinee shall
26 have the right to documentation of (i) his or her score on
27 the subjective component upon the completion of the
28 subjective examination component or its application and (ii)
29 an explanation of the basis or reasons for the score awarded.
30 Where chief's points or other subjective methods are employed
31 that are not amenable to monitoring, monitors shall not be
32 required, but any disputes as to the results of such methods
33 shall be subject to resolution in accordance with any

1 collectively bargained grievance procedure in effect at the
2 time of the test.

3 (c) Where performance evaluations are used as a basis
4 for promotions, they shall be given annually and made readily
5 available to each candidate for review and they shall include
6 any disagreement or documentation the employee provides to
7 refute or contest the evaluation.

8 (d) Total points awarded for subjective components shall
9 be posted before the written examination is administered and
10 before the promotion list is compiled.

11 Section 55. Veterans' preference. A person on a
12 preliminary promotion list who is eligible for veteran's
13 preference under any law or agreement applicable to an
14 affected department may file a written application for that
15 preference within 10 days after the initial posting of the
16 preliminary promotion list. The veteran's preference shall
17 be calculated as provided in the applicable law and added to
18 the applicant's total score on the preliminary promotion
19 list. Any person who has received a promotion from a
20 promotion list on which his or her position was adjusted for
21 veteran's preference, under this Act or any other law, shall
22 not be eligible for any subsequent veteran's preference under
23 this Act.

24 Section 60. Right to review. Any affected person or party
25 who believes that an error has been made with respect to
26 eligibility to take an examination, examination result,
27 placement or position on a promotion list, or veteran's
28 preference shall be entitled to a review of the matter by the
29 appointing authority or as otherwise provided by law in this
30 Act. This Section is not exclusive and does not limit any
31 right to seek review or redress under any other law or
32 agreement.

1 Section 65. Violations.

2 (a) A person who knowingly divulges or receives test
3 questions or answers before a written examination, or
4 otherwise knowingly violates or subverts any requirement of
5 this Act commits a violation of this Act and may be subject
6 to charges for official misconduct.

7 (b) A person who is the knowing recipient of test
8 information in advance of the examination shall be
9 disqualified from the promotion examination or demoted from
10 the rank to which he was promoted, as applicable and
11 otherwise subjected to disciplinary actions.

12 Section 900. The State Mandates Act is amended by adding
13 Section 8.27 as follows:

14 (30 ILCS 805/8.27 new)

15 Sec. 8.27. Exempt mandate. Notwithstanding Sections 6
16 and 8 of this Act, no reimbursement by the State is required
17 for the implementation of any mandate created by this
18 amendatory Act of the 93rd General Assembly.

19 Section 999. Effective date. This Act takes effect upon
20 becoming law.